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ABSTRACT

Cybercounseling is defined as the practice of professional counseling and information delivery that occurs when client(s) and counselor(s) are in separate or remote locations and utilize electronic means to communicate over the Internet. One of the counseling profession's main concerns will be unlicensed persons promoting themselves as competent Internet counselors. Unlicensed cybercounselors are almost legally untouchable, especially when a disclaimer statement is displayed stating what they are doing is not therapy. The National Board of Certified Counselors' Standards for the Ethical Practice of Webcounseling are specific, and give the impression this is an area that one does not enter lightly, without careful thought and consideration of implications and possible effects. Eleven critical issues in cybercounseling and seven other salient issues are listed. Information regarding licensure, jurisdiction, and state regulations for cybercounseling are discussed, including suggestions for policy and regulation. (Contains 6 references.) (MKA)

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Overview: What is Cybercounseling?

Cybercounseling, or WebCounseling, as it is called by the National Board of Certified Counselors (NBCC), is defined by NBCC as "the practice of professional counseling and information delivery that occurs when client(s) and counselor(s) are in separate or remote locations and utilize electronic means to communicate over the Internet." This definition would seem to include Web pages, email, and chat rooms but not telephones and faxes. The NBCC makes a statement that it does not advocate for or against WebCounseling (NBCC, 1998). Some therapists who say that cybercounseling is not counseling have Web sites available to people. Most of the Web sites have some kind of disclaimer stating that the information found there is *only* advice, e-therapy, information and education, or a *supplement* to therapy.

One of the counseling profession's main concerns will be of those who are unlicensed persons promoting themselves as competent Internet counselors. When a counselor is unlicensed, a state has no regulatory authority, unless there is a law in that state that will allow prosecution as a criminal act for practicing counseling without a license, or gives the board regulatory authority. Unlicensed cybercounselors are almost legally untouchable, especially when a disclaimer statement is displayed stating what they are doing is not therapy.

The NBCC Standards for the Ethical Practice of WebCounseling are specific, and give the impression this is an area that one does not enter lightly, without careful thought and consideration of implications and possible effects.

What are Critical Issues in Cybercounseling?

1. Truth in advertising—does the site deliver what it promises?
2. Confidentiality and privileged communication—are your transmissions safe? Who else in the counselee's home or workplace (use of workplace computers for cybercounseling is not advised) has access to messages?
3. Duty to warn—is the cybercounselor able to discern when a person is a threat to self or others, and what is the cybercounselor's obligation?
4. Competence—is the cybercounselor competent and licensed? What protection exists for the counselee?
5. Dual relationships— a predator-type of cybercounselor could use the internet to take advantage of counselees, or to arrange subsequent meetings.
6. How does a counselee know that the assigned homework or specific directions are valid for the type of problem presented?
7. Some cybercounselors may do inadequate pre-screening of potential counselees.
8. There may be a lack of cybercounselor knowledge of the circumstances or culture of the client.
9. The anonymity of the counselee may be problematic for the cybercounselor.
10. Fee structures vary—how does a counselee determine a fair price?
11. Is the counselee actually receiving advice from the person who is on the web page? In text counseling how does one verify this?

State Regulations and Cybercounseling

Similar to telemedicine, the issues of licensure and jurisdiction arise, except that counseling boards have not begun to address the problem. A client who obtains counseling services via the Internet from a counselor licensed in the same state has recourse to that state's regulatory board for any violations against either the state code or standards of practice. However, if a client has a complaint about a counselor licensed in another state, it is unclear in which state to register the complaint. As indicated earlier, state medical boards have addressed this issue, but not in a uniform manner.

The Federation of State Medical Boards (FSMB) produced model legislation regarding telemedicine. This proposal is less than helpful as a guide, as the main responsibility for who can or cannot practice telemedicine in the state is left to each state (Orbuch, 1997). The Health On the Net Foundation has a Code of Conduct for medical and health web sites which might be a guide to those counselors who have Web pages, but counseling is not specifically mentioned in any of their eight principles (Health On the Net Foundation Code of Conduct for medical and health web sites). The International Society for Mental Health Online was formed in 1997 "to promote the understanding, use and development of online communication, information and technology for the international mental health community." The principles are broad and not of the nature of regulation. The American Telemedical Association has a policy that is a compromise between having a national medical license and restrictive state regulation. It proposes that the state should not restrict "virtual travel" of its patients to seek medical advice outside of the state. It also states that a non-face-to-face encounter by a patient with a physican in another state is regulated by the physician's home state.

The next step, then would be making a decision as a state whether or not to allow cybercounseling to be part of the definition of counseling within that state. On the other hand, not saying anything about cybercounseling may already allow it. States could follow the example of the Telemedicine Development Act (Orbuch, 1997) and spell out, in detail, how reimbursement, confidentiality, informed consent, and licensure specifically apply to electronic communications. As opposed to individual Internet therapists, some of the more credible counseling services are received through established intra-state networks, formed from telemedicine grants, when mental health centers network with referrals from primary physicians. In these cases, there are no

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questions of credentials or licensure, or client protection from ethics violations, because everyone is under the same state's regulation and often use VTC. These networks, in some cases, are also eligible for Medicaid reimbursement (Health Care Financing, 1998).

Some states are requiring that doctors must be licensed in that particular state, even if holding license in the state of residence, to practice telemedicine. Credentials, length and type of post graduate experience, exams and fees vary substantially by state. If counseling were to follow this model, holding licenses in several states could mean multiple exams, extra courses, and expensive fees that would all serve as deterrents and drive the counselor out of cybercounseling. The counselor could be liable to differing standards of practice if licensed in two or more states, and would possibly have differing procedures regarding the reporting of abuse, billing issues, keeping records, and other standards of conduct (Whelan & Wood).

Other Salient Issues

1. Many colleges and universities are now offering distance courses and degrees via Internet. Will a counseling degree obtained via Internet be considered valid for a state license ?

2. When using the Web for information purposes, how does one discern the validity of the information gathered, particularly that information which is health-related?

3. As technology becomes more sophisticated and more accessible, will video conferencing become a standard, just as phone calls are now, not just in regular communications, but in cybercounseling as well?

4. Will the poor and underserved be part of the technological advances, or will they be increasingly left behind?

5. Data on counselors who have been sanctioned should become easier to access via states' Web sites, and therefore, the public protection factor should increase.

6. Telemedicine has not yet solved the issue of being licensed in one state and operating via Internet in others; cybercounseling will find itself in the same vague positions.

7. NBCC, CACREP, the Ethics Committee of ACA and the AASCB should work together to develop a draft of standards for acceptable cybercounseling standards and practices and address Internet-based distance education courses for counselor licensure. National standards, endorsed by these organizations, might prevent disparity among state boards regarding cybercounseling

Conclusion

Regulation is a complex issue. In telemedicine, some have advocated an international worldwide license. The hurdles are many, such as variety of educational standards and legal codes, not to mention determining who would administer this license. It would seem that a start might be a national counselor certificate in cybercounseling, with states accepting that certificate and thus allowing its already licensed counselors to participate in cybercounseling, with the counselor subject to the jurisdiction of the state of license.

Cybercounseling in one form or another is upon us (Lee, 1998). To dismiss it is unrealistic. We cannot ignore it, for to do so is to allow it to progress unregulated and open to charlatans, with the result of diminishing the profession of counseling. To change the quagmire into a quest will require risk-takers who are willing to be forward thinkers, embracing technology as having the possibility of a positive effect on the profession, and bringing wellbeing to a greater number of people.

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